

HOUSE CONSUMER AND EMPLOYEE AFFAIRS AMENDMENT NO. 1

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 3033*

House Bill No. 3055

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting Sections 1 and 2 in their entirety and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 23, is amended by adding as a new section the following:

Section ____.

(a) As used in this section, unless the context otherwise requires:

(1) "Dwelling" means a residential structure or mobile home which contains one (1) to four (4) family housing units, or individual units of condominiums or cooperatives.

(2) "Cross-collateralization clause" shall mean a clause which by its terms permits the mortgage or deed of trust to secure an obligation other than that for which it was specifically incurred, including a pre-existing or subsequent transaction, but not including future advances permitted under the lending agreement or any extension, modification or renewal of such agreement. Cross-collateralization clause includes a clause commonly referred to as dragnet, blanket or spreader.

(b) A mortgage or deed of trust securing an indebtedness on a dwelling in Tennessee which contains a cross collateralization clause shall distinguish the existence of the cross-collateralization clause. A cross-collateralization clause is sufficiently distinguished if it meets any of one (1) of the following methods:

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(1) it appears in a type size at least two (2) points larger than the surrounding text;

(2) it appears in a substantially different type face or font from the surrounding text, including, but not limited to, bold or italics;

(3) it appears within a lined box or with a lined border above and below;

(4) it appears with a special heading or title labeled "cross-collateralization clause", the heading or title which meets any of the above to distinguish its existence; or

(5) the mortgagor or transferor acknowledges the existence of the clause by initialing the mortgage or deed of trust adjacent to the clause or in a separate disclosure which refers to the cross-collateralization clause.

(c) Failure to comply with the provisions of this section shall render the cross-collateralization clause unenforceable and of no effect but shall not affect or impair any other provision of the mortgage or deed of trust.

(d) The provisions of this section shall apply to a mortgage or deed of trust executed on or after January 1, 1997, and shall apply to

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both consumer and commercial transactions where a dwelling is pledged
as security for an indebtedness.

(f) The department of financial institutions shall have the authority
to promulgate rules and regulations, if necessary, to effectuate the
purposes of this act. Such regulations shall be promulgated in
accordance with the provisions of the Uniform Administrative Procedures
Act, Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon
becoming a law, the public welfare requiring it; for all other purposes, this act shall take
effect on January 1, 1997.